

SPECIAL EDUCATION STATE COMPLAINT PROCEDURES

(Revised 1/28/2011)

Rhode Island Department of Education
Office of Student, Community and Academic Supports

A formal, written state complaint process is different than other dispute resolution processes. An individual or organization may file a formal written complaint with the Rhode Island Department of Education (RIDE) if s/he believes a school department or other public educational agency has violated a requirement of the *Rhode Island Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities* or a provision of the *Individuals with Disabilities Act* (IDEA). This complaint must be submitted in writing and must include certain required elements as described in these procedures. The RIDE will carry out an investigation and issue a written Findings Letter within 60 calendar days of receiving the complaint (unless an extension is granted). If the school department or other public educational agency is determined to be in violation of special education laws regulations, it will be required to develop and implement a corrective action plan. The conclusions and corrective actions stipulated in the Findings Letter represent the final decision of the Rhode Island Department of Education.

What is a special education state complaint?

A state complaint is a signed, written statement alleging that a local school department or other public education agency violated a requirement of the *Individuals with Disabilities Education Act* (IDEA) or *Rhode Island Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities*.

Who handles and investigates special education state complaints?

The Rhode Island Department of Education (RIDE) Office of Student, Community and Academic Supports investigates complaints alleging violations of special education laws and regulations. Complaints should be submitted to:

Dispute Resolution/Office of Student, Community and Academic Supports
Rhode Island Department of Education, Suite 500
255 Westminster Street
Providence, RI 02903-3400

Who may file a special education state complaint?

An individual or organization may file a signed, written complaint under the procedures in *Rhode Island Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities*, Section 300.153.

http://www.ride.ri.gov/Special_Populations/State_federal_regulations/special_education_regulations_2008.pdf

If the complainant is not a parent or guardian (for example, an educational advocate or teacher), RIDE cannot provide to the complainant personally identifiable information about the student, including RIDE's Findings Letter, without written parent consent.

What must the state complaint include?

To assist individuals and agencies to ensure that all required elements are included in the complaint, the RIDE has provided a model complaint form under the heading, "When Schools and Families Do Not Agree (Dispute Resolution Option)" on its website at:

http://www.ride.ri.gov/Special_Populations/Dispute_resolution/

The use of the model form is not required, but the written complaint must include:

- a) A statement claiming that a public agency has violated **special education regulations**;
- b) The facts on which the allegation is based; and
- c) The complainant's signature and contact information.

If the alleged violations relate to a specific child, the written complaint must also include:

- d) The child's name and resident address*;
- e) The name of the child's school;
- f) A description of the nature of the problem and related facts; and
- g) To the extent known and available at the time of the complaint, a proposed resolution of the problem.

*In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)), available contact information for the child.

If a written state complaint includes allegations that are also the subject of a due process hearing, RIDE must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. If a state complaint raises an issue previously decided in a due process hearing involving the same parties, the hearing decision is binding on that issue.

What is the time period for filing a special education state complaint?

The violation cited must be alleged to have occurred within one year of the date that the complaint is filed, except where the alleged violation is continuing or the complainant is requesting compensatory services under Section 300.153(c) and in accordance with Section 300.151.

Who else must be informed of the state complaint?

At the same time that an individual or agency submits a written complaint to the Rhode Island Department of Education, s/he must forward a copy to the school department or public agency serving the child.

What happens after the state complaint is submitted?

The Office of Student, Community and Academic Supports reviews each complaint to determine whether all complaint criteria are met. If elements are omitted, the complainant will be provided an opportunity to complete the necessary components.

Upon receipt of a signed and complete special education complaint in the Office of Student, Community and Academic Supports, the complaint is logged and the investigation timeline begins.

Investigation

A written notice is sent to the Superintendent of the school department or public agency in which the child is enrolled, requesting a response to the complaint within ten (10) business days of the notice. A copy of the complaint notice is forwarded, as applicable, to the special education director and parent, and, in addition, the attorney if representing either party.

After the conclusion of the ten-day response period, the RIDE further investigates the claim(s) as needed to determine the facts of the complaint. Investigations may include, but are not limited to, review of documents and records, interviews, and on-site observations.

The complainant may submit additional information, either verbally or in writing, about the allegations in the complaint.

RIDE reviews all relevant information and evidence in determining the facts and makes a determination regarding whether the alleged complaint is substantiated by fact and whether the public agency is in compliance with special education law and regulations.

Findings Letter

Within 60 calendar days of receiving the complaint, RIDE issues a written decision to the parent and school department (or public education agency) that addresses the allegations in the complaint, indicates findings of fact and conclusions, and the reasons for its final decision. (An extension in time beyond the 60 days is permitted **only** if exceptional circumstances exist with respect to a particular complaint. The Findings Letter will be translated as needed into the parents' primary language used for accessing written material.

Corrective Action:

If RIDE finds a failure to provide appropriate services, the Findings Letter will address any failure to provide appropriate services, including corrective action. Corrective action may address the needs of the child or appropriate future provision of services for all children with disabilities.

The Findings Letter contains:

- a) Statement of the Complaint
- b) Investigation Conducted
- c) Findings of Fact
- d) Final Conclusion
- e) Reason(s) for RIDE's decision
- f) Corrective Action (as applicable)
- g) Recommendations (as applicable)